

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PAUL BLACK,

Plaintiff,

-against-

JEFFREY S. SCHWARTZ and LAW OFFICE
OF JEFFREY S. SCHWARTZ,

Defendants.
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LINDSAY, Magistrate Judge:

Before the court is the plaintiff's letter application dated April 9, 2011, seeking to exclude the supplemental expert report of Matthew Argue, Esq., dated March 28, 2011 and served by facsimile on March 30, 2011, on the grounds that the supplemental report was untimely having been served over two weeks after the March 14, 2011 discovery deadline. Defendants concede that the supplemental report was served after the discovery deadline and have cross moved to permit the use of the expert and his supplemental report at trial. Plaintiff's application is denied, and defendants' cross motion is granted subject to the condition outlined below.

In light of the court's ruling, the time to complete expert discovery will be extended to afford plaintiff the opportunity to have his expert review the supplemental report of Mr. Argue and to prepare a supplemental response. In addition, defendants are to make Mr. Argue available for a supplemental deposition as required by plaintiff. In as much as any supplemental deposition of Mr. Argue has been necessitated by the defendants' failure to comply with their discovery obligations, they will be assessed the costs incurred by plaintiff for the additional deposition. To permit the parties' compliance with this order and the scheduling of Mr. Argue's deposition, the court will extend the expert discovery deadline to June 16, 2011 for this limited purpose. Defendants are directed to produce Mr. Argue for a deposition on or before June 2, 2011. Neither party may serve new requests or discovery applications. The deadline to commence dispositive motion practice is extended to June 30, 2011. The final conference scheduled for May 3, 2011 is adjourned to July 7, 2011 at 2:00 p.m. The parties are directed to electronically file a proposed joint pretrial order prior to the final conference.

Dated: Central Islip, New York
April 20, 2011

SO ORDERED:

/s
ARLENE ROSARIO LINDSAY
United States Magistrate Judge